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In re Application of VAARALA et al

Application No.: 10/500,930

PCT Application No.: PCT/FI03/00045

Int. Filing Date: 21 January 2003

Priority Date Claimed: 22 January 2002

Attorney Docket No.: 290.1078USN

For: METHOD AND SYSTEM FOR SENDING A  
MESSAGE THROUGH A SECURE CONNECTION

: DECISION ON PETITION

: UNDER 37 CFR 1.137(b)

This is a decision on applicants' Petition For Revival Under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 13 June 2005.

### BACKGROUND

On 21 January 2003, applicants filed international application PCT/FI03/00045. The international application claims a priority date of 22 January 2002 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 31 July 2003. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 22 July 2004.

On 8 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, and an unexecuted declaration of the inventors.

On 13 December 2004, a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e). This Notification set a two (2) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

On 13 June 2005, applicants filed the instant petition for revival accompanied by, *inter alia*, the petition fee of \$750, an executed declaration as required by 35 U.S.C. 371(c)(4), and the surcharge of \$65 for the late declaration.

### DISCUSSION

Applicants' response filed 13 June 2005 was within the time limits set by the Notification of Missing Requirements, which provided for a two (2) month period for reply, with extensions of time available. Applicants' response was filed in the fourth month, so a four month extension fee of \$795 is required. This fee has been charged to Deposit Account No. 06-0243 as authorized. Applicants' response included an executed declaration as required by 35 U.S.C. 371(c)(4) and the surcharge of \$65 for the late declaration. As such, applicants' reply is timely and the application is not abandoned. Therefore, the petition to revive is moot and the \$750 fee has been credited back to counsel's Deposit Account.

The declaration filed 13 June 2005 is defective because it does not include the entire declaration signed by each inventor. See MPEP 201.03, which states:

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

Thus, applicants' declaration is defective because it is a combined declaration consisting of two individually executed declarations. The declarations must include all of the pages of the declaration signed by each of the inventors.

### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is DISMISSED as MOOT.

Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth above. Applicant is given **ONE (1) MONTH** from the mailing date of this notice, within which to supply the substitute declaration or oath in order to avoid abandonment. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136.

  
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